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Attorneys for Defendant  
COUNTY OF SAN LUIS OBISPO

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

SAN LUIS OBISPO COASTKEEPER,  
LOS PADRES FORESTWATCH,  
CALIFORNIA COASTKEEPER  
ALLIANCE, and THE ECOLOGICAL  
RIGHTS FOUNDATION,

Plaintiffs,

vs.

COUNTY OF SAN LUIS OBISPO,  
Defendant.

Case No: 2:24-cv-06854 SPG (ASx)

**DISCOVERY MATTER**

**DECLARATION OF KATHERINE  
L. FELTON IN SUPPORT OF  
COUNTY OF SAN LUIS OBISPO'S  
OPPOSITION TO PLAINTIFFS' EX  
PARTE APPLICATION TO STAY  
OR IN THE ALTERNATIVE  
QUASH DEPOSITION  
SUBPOENAS FOR BENJAMIN  
PITTERLE, GORDON HENSLEY,  
AND CYNTHIA REPLOGLE**

Magistrate Judge: Hon. Alka Sagar

1 I, Katherine L. Felton, declare as follows:

2 1. I am a Partner at the law firm of Nossaman LLP ("Nossaman"), counsel  
3 of record for Defendant County of San Luis Obispo ("County"). I am duly licensed  
4 to practice law in the states of Washington and Alaska, and I am admitted *pro hac*  
5 *vice* before this Court in the instant litigation. Unless otherwise stated on  
6 information and belief, I have personal knowledge of the facts set forth herein. If  
7 called upon to do so, I could and would competently testify to the matters set forth  
8 in this declaration.

9 2. I make this Declaration in support of the County's Opposition to  
10 Plaintiffs' Ex Parte Application to Stay or In the Alternative Quash Deposition  
11 Subpoenas for Benjamin Pitterle, Gordon Hensley, and Cynthia Replogle (the "Ex  
12 Parte Application").

13 3. On the morning of Friday, May 16, 2025, while driving to the office, I  
14 became aware of an ECF notification that had been delivered to my email inbox at  
15 12:21 a.m. The ECF notification pertained to Plaintiffs' filing of an Ex Parte  
16 Application which according to the ECF notification occurred at "0:20 AM PDT"  
17 on May 16, 2025. As a result of this filing, I had to immediately drop everything,  
18 including other work on this litigation and work for other clients on other matters,  
19 to address Plaintiffs' literal midnight filing of the Ex Parte Application. Responding  
20 to Plaintiffs' Ex Parte Application consumed all of my work time on Friday and a  
21 substantial portion of the weekend. Paul Weiland and Brian Ferrasci-O'Malley were  
22 also required to stop work on other matters and devote a substantial portion of their  
23 workday on Friday to preparing the County's Opposition to Plaintiffs' Ex Parte  
24 Application. Paul Weiland also devoted substantial time over the weekend to  
25 preparing the County's response, as did others, including a legal secretary who had  
26 to work on Sunday to assist in preparing and filing this Opposition.

1           4.     Attached as Exhibit 1 is a true and correct copy of excerpts from  
2 Plaintiff's Initial Disclosures to the County of San Luis Obispo served on October  
3 18, 2024.

4           5.     Attached as Exhibit 2 is a true and correct copy of the April 21, 2025  
5 email from the County's counsel to plaintiffs' counsel requesting that plaintiffs'  
6 counsel "identify dates between May 14 and May 30 that each of Plaintiffs' four  
7 standing witnesses are available for purposes of us taking their deposition."

8           6.     Attached as Exhibit 3 is a true and correct copy of the April 22, 2025  
9 email from plaintiffs' counsel in which plaintiffs' counsel stated "Plaintiffs  
10 anticipate that the parties will schedule these [30(b)(6)] depositions, which have  
11 been pending for some time, prior to discussing the scheduling, format, and number  
12 of depositions of Plaintiffs' standing witnesses (noted in Mr. Ferrasci-O'Malley's  
13 email yesterday)."

14           7.     On April 24, 2025, the County tried again to set the standing witness  
15 depositions. Attached as Exhibit 4 is a true and correct copy of the April 24, 2024  
16 email to plaintiffs' counsel requesting that they "[p]lease provide the dates between  
17 May 14 and May 30 for the standing witness depositions." Counsel pointed out to  
18 Plaintiffs that the County had provided the information that Plaintiffs' counsel  
19 sought regarding the County's 30(b)(6) depositions.

20           8.     Attached as Exhibit 5 is a true and correct copy of the May 2, 2025  
21 letter from plaintiffs' counsel in which plaintiffs' counsel continued to refuse to  
22 provide dates for the standing witness depositions.

23           9.     The parties conducted a meet and confer on May 5, 2025. During that  
24 meeting, the County's counsel requested, and Plaintiffs' counsel agreed, to waive  
25 formal service of the standing witness deposition subpoenas, to accept service of  
26 deposition subpoenas on their behalf, and to waive the witnesses' deposition fees  
27 and mileage. Plaintiffs' counsel memorialized their commitment in an email to the  
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County's counsel the following day on May 6, 2025, a true and correct copy of which is attached as Exhibit 6.

10. The County promptly issued subpoenas for the standing witness depositions the same day. Attached as Exhibit 7 is a true and correct copy of the May 6, 2025 email from the County's counsel to Plaintiffs' counsel transmitting the deposition subpoenas for Sean Bothwell, Gordon Hensley, Cynthia Replogle, and Benjamin Pitterle.

11. Attached as Exhibit 8 is a true and correct copy of the May 8, 2025 email from Plaintiffs' counsel objecting to the subpoenas.

12. Attached as Exhibit 9 is a true and correct copy of the May 9, 2025 email from the County's counsel to Plaintiffs' counsel providing dates for a further meet and confer and refuting Plaintiffs' position that the County is required to make a showing before deposing Plaintiffs' standing witnesses.

13. Attached as Exhibit 10 is a true and correct copy of a May 12, 2025 email from Plaintiffs' counsel continuing to object to the deposition dates without providing alternatives.

14. Attached as Exhibit 11 is a true and correct copy of the County's May 12, 2025 response.

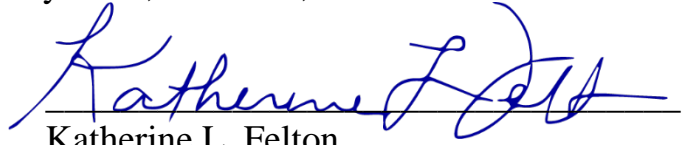
15. The parties conducted a further meet and confer on May 13, 2025. During that meet and confer Plaintiffs refused to withdraw any of their standing witnesses, or to stipulate that they would not rely on any of the standing witnesses going forward.

16. Attached as Exhibit 12 is a true and correct copy of Plaintiffs' counsel's May 15, 2025 email to the County's counsel threatening to proceed with an *ex parte* application if the County would not agree to Plaintiffs' conditions. The County refused, and after midnight on May 16, 2025, Plaintiffs filed their application.

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1 I declare under penalty of perjury under the laws of the United States that  
2 the foregoing is true and correct.

3 Executed on this 18<sup>th</sup> day of May 2025, at Arcata, California.

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